To require the Federal prudential banking agencies to determine whether certain institutions they regulate engage in a pattern or practice of violations of Federal banking and consumer protection laws and regulations, to provide for the revocation of banking charters and Federal deposit insurance for such institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2017

Ms. Maxine Waters of California (for herself, Mr. Capuano, Mr. Ellison, Mr. Al Green of Texas, Ms. Kaptur, Ms. Jayapal, Mr. Sarbanes, Mr. Raskin, and Ms. Schakowsky) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To require the Federal prudential banking agencies to determine whether certain institutions they regulate engage in a pattern or practice of violations of Federal banking and consumer protection laws and regulations, to provide for the revocation of banking charters and Federal deposit insurance for such institutions, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Megabank Accountability and Consequences Act of 2017”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Federal prudential banking agencies and the Bureau of Consumer Financial Protection (“Consumer Bureau”) are tasked with the responsibility for overseeing United States banking organizations and foreign banks operating in the United States. Prior to the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010 (“Dodd-Frank Act”) and the existence of the Consumer Bureau, the Federal prudential banking agencies were responsible for supervising banks for safety and soundness and compliance with Federal consumer financial laws.

(2) Following the 2007–2009 financial crisis, Congress conducted a series of hearings and concluded that in the years leading up to the crisis, the Federal prudential banking agencies were not adequately utilizing their rulemaking and supervisory functions, nor enforcing Federal consumer financial laws appropriately, which led to widespread consumer abuses that in turn contributed to the crisis and led to the near collapse of the United States.
banking system. To the extent Federal prudential banking agencies took action to enforce consumer protection laws, their actions were extremely limited and focused on small banks even though the majority of consumer complaints were tied to the largest banks. In order to better protect consumers from many of the predatory acts and practices within the consumer financial marketplace that contributed to the financial crisis, and to restore integrity to the country’s financial system, Congress enacted the Consumer Financial Protection Act of 2010 (‘‘CFPA’’), under title X of the Dodd-Frank Act. The CFPA established the Consumer Bureau to regulate the offering and provision of consumer financial products or services under the Federal consumer financial law for certain covered entities. The Consumer Bureau’s enforcement powers with respect to very large banking organizations include investigative authority and the ability to—

(A) conduct hearings and adjudication proceedings;

(B) commence civil action lawsuits and make referrals to the U.S. Attorney General for criminal proceedings;
(C) issue consent orders, under which restitution, refunds, rescission or reformation of contracts, or claw-back of compensation, is required; and

(D) impose civil money penalties.

(3) In the years since Congress enacted the Dodd-Frank Act, some very large banking organizations operating in the United States have repeatedly violated Federal banking and consumer protection laws by engaging in unethical business practices, which have enabled them to maximize profits for shareholders at the expense of the interest of the public. Enforcement actions have been taken, most notably by the Consumer Bureau, but these banks continue to act with impunity and violate numerous laws designed to protect consumers.

(4) Senior bank executives, including the chief executive officer, board of directors and other senior officers at the largest banking organizations have rarely been held personally accountable for Federal consumer protection law violations and other illicit practices that occurred during their tenure. In a report to Congress from the Office of the Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”), the SIGTARP wrote in 2016:
“The American people have called for stronger reforms on Wall Street, frustrated by the lack of senior executive accountability at the largest banks. I have called for Wall Street reform based on the difficulties SIGTARP has faced as a law enforcement agency in proving criminal intent of senior executives at large institutions given how isolated they are from knowledge of fraud in their company. This isolation is part of the culture at large institutions, and is something that is unlikely to change absent reform.”

(5) The Consumer Bureau has taken strides in fulfilling its statutory objectives and mission to ensure that all consumers have access to markets for consumer financial products and services and that these markets are fair, transparent, and competitive. Yet, unlike the broad authority of Federal prudential banking regulators over entire operations of its regulated entities, the scope of and applicability of the Consumer Bureau’s supervisory authority is limited. The Consumer Bureau, for example, does not have the authority to revoke a bank’s charter or terminate a bank’s Federal deposit insurance, even when it has found a bank to have engaged in a pattern
of recurring and egregious violations of Federal con-
sumer financial laws and regulations.

(6) The Federal prudential banking agencies
are authorized to not only license, charter, and ap-
prove the operations of banking organizations, but
also to supervise these institutions for compliance
with Federal banking laws and regulations. Addi-
tionally, the Federal prudential banking agencies
have indicated, and Congress agrees, that instances
of consumer harm by a banking organization may be
deemed an unsafe or unsound banking practice of an
institution, warranting additional enforcement ac-
tions beyond those that have also been issued by the
Consumer. Federal Reserve Board Chair Janet
Yellen said in 2016, “Of course, consumer issues
and issues that involve harm of consumers can be-
come safety and soundness issues. And if there
was—at least one of the lessons from the financial
crisis, I think, is that abuses of consumers of the
sort that we see—saw in subprime lending ulti-
mately did become—become safety and soundness
issues. And so, of course, we need to have that con-
cern, and we’ll focus there.”.

(7) Formal and informal enforcement authori-
ties afforded to the Federal prudential banking
agencies include consent orders, cease and desist orders, civil money penalties, written agreements, and the ability to place limitations on or remove institution-affiliated parties—such as a director or officer of an institution—for violations of laws or regulations. For the most egregious cases, when institutions commit illegal acts or repeatedly fail to comply with laws or regulations, the Federal prudential banking agencies also have the authority, and duty, to take more serious actions, such as limit the activities or functions of a bank, permanently bar culpable bank officials from working again in the banking industry, terminate Federal deposit insurance for a bank, appoint a receiver to unwind the bank or revoke the bank’s national charter.

(8) Despite these important statutory powers, the Federal prudential banking agencies continue to rely on enforcement tools such as consent orders, cease and desist orders, and civil money penalties, even in instances when an institution’s violations have demonstrated unsafe or unsound business practices and past supervisory and enforcement actions have not sufficiently deterred illegal practices.

(9) The failure of the Federal prudential banking agencies to exercise statutorily provided enforce-
ment authorities—such as revoking a bank’s national charter or terminating its Federal deposit insurance—on institutions that have demonstrated a pattern or practice of unsafe or unsound banking practices related to repeat violations of Federal consumer financial laws or regulations, has resulted in insufficient regulatory oversight that has allowed institutions to continue to engage in inappropriate and illegal business practices harming millions of consumers.

(10) Unlike small community banks that serve consumers in their local communities, megabanks (as identified as global systemically important bank holding companies) are comparatively extremely large and serve millions of consumers. Whereas Federal prudential banking agencies have demonstrated an ability to take enforcement actions against small community banks, including for violations of Federal consumer financial law, the same has not been demonstrated to be true of megabanks. While the Dodd-Frank Act established a regulatory framework that has made significant progress in leveling the playing field between large and small banks, including with respect to how the Consumer Bureau’s authorities were designed and how the toughest rules apply to
megabanks, new laws should be enacted that build on the Dodd-Frank Act’s tiered and tailored regulatory framework to mandate action in areas where Federal prudential banking agencies have been reluctant to exercise their discretion to take appropriate action against megabanks that repeatedly violate laws and harm millions of consumers. New laws should also be enacted to clarify repeated violations of Federal consumer protection law are sufficient grounds to take certain enforcement actions.

(11) To ensure market discipline and confidence in the U.S. financial system, Federal prudential banking regulators should exercise all statutorily mandated powers, including revoking the charter or terminating Federal deposit insurance of any large banking organization that has demonstrated a pattern of engaging in unsafe and unsound banking practices that extensively harms consumers.

(12) Any megabank, either through its holding company, depository institutions, or affiliates, that repeatedly harms consumers or violates Federal consumer financial laws or regulations, has demonstrated a pattern of unsafe or unsound banking practices that necessitates that Federal prudential banking agencies immediately initiate proceedings,
under existing statutory authority, to revoke its national charter or terminate its Federal deposit insurance, and place the institution into receivership for sale or dissolution.

(13) Furthermore, even if a banking organization’s violations of Federal consumer financial laws are deemed not to technically constitute unsafe or unsound banking practices, it still may demonstrate a pattern of wrongdoing causing unacceptable harm to its customers, such that continuing to enable it to engage in the business of banking distorts the regulatory purpose of providing national bank charters, deposit insurance and other benefits, and undermines the overarching mission of all Federal prudential banking agencies to protect the interest of the public and the needs of consumers. Federal legislation is needed, therefore, to underscore the importance that Federal prudential banking regulators should, after consulting with the Consumer Bureau, exercise all their available enforcement powers with respect to large banking organizations that repeatedly violate Federal consumer financial laws, including authority to restrict business lines, revoke an institution’s national banking charter, terminate the institution’s Federal deposit insurance, and hold the
institution’s board of directors and senior officers accountable.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) BANKING ORGANIZATION.—The term “banking organization” means any bank, savings association, bank holding company, or savings and loan holding company, and includes any subsidiary or affiliate of a bank holding company or savings and loan holding company.

(2) BOARD OF GOVERNORS.—The term “Board of Governors” means the Board of Governors of the Federal Reserve System.

(3) COMPTROLLER.—The term “Comptroller” means the Comptroller of the Currency.

(4) CONSUMER BUREAU.—The term “Consumer Bureau” means the Bureau of Consumer Financial Protection.

(5) CORPORATION.—The term “Corporation” means the Board of Directors of the Federal Deposit Insurance Corporation.

(6) FEDERAL CONSUMER FINANCIAL LAW.—The term “Federal consumer financial law” has the meaning given that term under section 1002 of the

(7) Federal consumer protection law.—The term “Federal consumer protection law” means—

(A) the Federal consumer financial law;

(B) the Fair Housing Act;

(C) the Federal Trade Commission Act;

(D) section 987 of title 10, United States Code (commonly known as the “Military Lending Act”);

(E) the Servicemembers Civil Relief Act;

and

(F) any regulation issued under a law described under subparagraph (A), (B), (C), (D), or (E).

(8) Federal prudential banking agencies.—The term “Federal prudential banking agencies” means the Board of Governors, the Comptroller, and the Corporation.

(9) Foreign bank.—The term “foreign bank” has the meaning given that term under section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)).
(10) **Global systemically important bank holding company.**—

(A) **In general.**—The term “global systemically important bank holding company” means—

(i) a bank holding company that has been identified by the Board of Governors as a global systemically important bank holding company pursuant to section 217.402 of title 12, Code of Federal Regulations; and

(ii) a global systemically important foreign banking organization, as defined under section 252.2 of title 12, Code of Federal Regulations.

(B) **Treatment of existing GSIBs.**—A company or organization described under clause (i) or (ii) of subparagraph (A) on the date of the enactment of this Act shall be deemed a global systemically important bank holding company for purposes of this Act.

(11) **Pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm.**—The term “pattern or practice of unsafe or unsound banking
practices and other violations related to consumer harm” means engaging in all of the following activities, to the extent each activity was discovered or occurred at least once in the 10 years preceding the date of the enactment of this Act:

(A) Having unsafe or unsound practices in the institution’s risk management and oversight of the institution’s sales practices, as evidenced by—

(i) an institution lacking an enterprise-wide sales practices oversight program that enables the institution to adequately monitor sales practices to prevent and detect unsafe or unsound sales practices and mitigate risks that may result from such unsafe and unsound sales practices; and

(ii) an institution lacking a comprehensive customer complaint monitoring process that—

(I) enables the institution to assess customer complaint activity across the bank;
(II) adequately monitors, manages, and reports on customer complaints; and

(III) analyzes and understands the potential risks posed by the institution’s sales practices.

(B) Engaging in unsafe and unsound sales practices, as evidenced by the institution—

(i) opening more than one million unauthorized deposit, credit card, or other accounts;

(ii) performing unauthorized transfers of customer funds; and

(iii) performing unauthorized credit inquiries for purposes of the conduct described in clause (i) or (ii).

(C) Lacking adequate oversight of third-party vendors for purposes of risk-mitigation, to prevent abusive and deceptive practices in the vendor’s provision of consumer products or services.

(D) Having deficient policies and procedures for sharing customers’ personal identifiable information with third-party vendors for litigation purposes that led to inadvertent dis-
closure of such information to unintended par-
ties.

(E) Violating Federal consumer financial
laws with respect to mortgage loans, including
charges of hidden fees and unauthorized or im-
proper disclosures tied to home mortgage loan
modifications.

(F) Engaging in unsafe or unsound bank-
ing practices related to residential mortgage
loan servicing and foreclosure processing.

(G) Violating the Servicemembers Civil Re-
lief Act.

(12) PATTERN OR PRACTICE OF VIOLATIONS OF
FEDERAL CONSUMER PROTECTION LAWS.—

(A) IN GENERAL.—The term “pattern or
practice of violations of Federal consumer pro-
tection laws” means—

(i) a pattern or practice of unsafe or
unsound banking practices and other viola-
tions related to consumer harm; and

(ii) such other pattern or practice as
the Director of the Consumer Bureau
shall, in consultation with the Comptroller,
the Board of Governors, and the Corpora-
tion, establish by regulation.
(B) **TIME PERIOD.**—Eligible activities that may be included in any pattern or practice described under subparagraph (A) are those that were discovered or occurred in the 10 years preceding any determination made under section 101 or section 201.

(C) **RULEMAKING.**—Not later than the end of the 1-year period beginning on the date of the enactment of this Act, the Director of the Consumer Bureau shall issue final regulations to carry out subparagraph (A)(ii).

(13) **STATE.**—The term “State” means the several States, the District of Columbia, and any other territory or possession of the United States.

(14) **DEFINITIONS RELATED TO SUBSIDIARIES AND AFFILIATES OF FOREIGN BANKS.**—The terms “agency”, “branch”, “commercial lending company”, and “representative office” have the meanings given those terms, respectively, under section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)).

(15) **OTHER BANKING DEFINITIONS.**—The terms “affiliate”, “appropriate Federal banking agency”, “depository institution”, “Federal savings association”, “insured depository institution”, “na-
tional bank”, “savings association”, “subsidiary”, “State depository institution”, and “State member bank” have the meaning given those terms, respectively, under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

SEC. 4. AGENCY AUTHORITY.

(a) IN GENERAL.—Notwithstanding any other law and for the sole purpose of carrying out the requirements of this Act, in the event that the Board of Governors or the Corporation lack a quorum, a majority of the members of the Board of Governors and a majority of the members of the Corporation shall have the full authority to act on behalf of their respective agency.

(b) DETERMINATION OF CERTAIN VIOLATIONS.—In making any determination under this Act with respect to whether an institution has violated a Federal consumer protection law, if a Federal prudential banking agency does not have enforcement authority over the applicable Federal consumer protection law, the agency shall rely on publically available information with respect to such violations, such as criminal convictions and enforcement actions, and consult with any relevant Government department or agency that took such actions against the institution.
(c) Rule of Construction.—Nothing in this Act shall be construed to reduce or impair any existing authority with respect to enforcement actions taken by an appropriate Federal banking agency. Furthermore, a violation of Federal consumer protection law or a pattern or practice of violations of Federal consumer protection laws by an institution shall not be deemed insufficient grounds for the appropriate Federal banking agency to take any enforcement action, including those referenced in this Act, it deems necessary and is otherwise authorized to take.

TITLE I—CONGRESSIONAL MANDATE TO REVIEW AND WIND DOWN MEGABANKS THAT CONTINUOUSLY ABUSE CONSUMERS AND REPEATEDLY VIOLATE THE LAW

SEC. 101. INITIATE PROCEEDINGS TO REVOKE CHARTER.

(a) In General.—

(1) Revocation of charter.—The Comptroller shall review and determine, after consulting with the Director of the Consumer Bureau, within 90 days of enactment of this Act whether a national bank or Federal savings association affiliated with a global systemically important bank holding company, or the branch, representative office, or agency of a
foreign bank that is federally licensed and affiliated with a global systemically important bank holding company, is engaging or has engaged in a pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm. Not later than 120 days after the date of enactment of this Act, the Comptroller shall provide written notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review, listing any identified institution with a detailed basis for the determination, and, subject to subsection (d), immediately initiate proceedings to terminate the Federal charter of any such institution or appoint a receiver for any such institution, pursuant to title LXII of the Revised Statutes of the United States, the National Bank Receivership Act (12 U.S.C. 191 et seq.), or the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.).

(2) TERMINATION OF FEDERAL DEPOSIT INSURANCE.—The Corporation shall review and determine, after consulting with the Director of the Consumer Bureau, within 90 days of enactment of this Act, whether an insured depository institution affiliated with a global systemically important bank hold-
ing company has engaged or is engaging in a pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm.

Not later than 120 days after the date of enactment of this Act, the Corporation shall provide written notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review, listing any identified institution with a detailed basis for the determination and, subject to subsection (d), immediately initiate an involuntary termination of the deposit insurance of the depository institution under and subject to the procedures set forth in section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)).

(3) Termination of Federal Reserve Membership of a State Member Bank.—The Board of Governors shall review and determine, after consulting with the Director of the Consumer Bureau, within 90 days of enactment of this Act, whether a State member bank affiliated with a globally systemically important bank holding company is engaging or has engaged in a pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm. Not later than 120 days
after the date of enactment of this Act, the Board of Governors shall provide written notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review, listing any identified institution with a detailed basis for the determination and, subject to subsection (d), immediately initiate proceedings to terminate such bank’s membership in the Federal Reserve System pursuant to the Federal Reserve Act (12 U.S.C. 221 et seq.).

(4) Termination of U.S. Activities by Foreign Bank.—The Board of Governors shall review and determine, after consulting with the Director of the Consumer Bureau, within 90 days of enactment of this Act whether—

(A) a foreign bank affiliated with a global systemically important bank holding company that has a State-licensed branch, agency, commercial lending company, or representative office is engaging or has engaged in a pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm. Not later than 120 days after the date of enactment of this Act, the Board of Governors shall
provide written notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review, listing any identified foreign bank with a detailed basis for the determination and, subject to subsection (d), immediately initiate proceedings to terminate the foreign bank’s ability to operate in the United States pursuant to section 7(e) of the International Banking Act of 1978 (12 U.S.C. 3105(e)); or

(B) a Federal branch or Federal agency of a foreign bank affiliated with a global systemically important bank holding company that is engaging or has engaged in a pattern or practice of unsafe or unsound banking practices and other violations related to consumer harm. Not later than 120 days after the date of enactment of this Act, the Board of Governors shall provide written notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review, listing any identified institution with a detailed basis for the determination and transmit
within 24 hours to the Comptroller a recommenda-
tion that the license of the Federal
branch or Federal agency be terminated pursu-
ant to section 4(i) of the International Banking
Act of 1978 (12 U.S.C. 3102(i)).

(b) MANDATORY TESTIMONY.—The Federal pruden-
tial banking agencies shall testify before the Committee
on Financial Services of the House of Representatives and
the Committee on Banking, Housing, and Urban Affairs
of the Senate regarding the review required by this section
no later than 180 days after the date of enactment of this
Act.

(c) COORDINATED AND UNIMPEDED ACTION.—Each
Federal prudential banking agency shall coordinate and
share all relevant information with other Federal pruden-
tial banking agencies in carrying out this section. To the
extent the same institution is identified by multiple Fed-
eral prudential banking agencies under this section, the
appropriate Federal banking agency shall not delay or oth-
erwise cease taking any action required by this Act with
respect to the institution.

(d) JUDICIAL REVIEW.—A determination by the
Comptroller, the Board of Governors, or the Corporation
under subsection (a) shall be subject to review by a Fed-
eral district court of competent jurisdiction under the pro-
cedures provided for under section 8(h) of the Federal De-
posit Insurance Act (12 U.S.C. 1818(h)).

(e) REMOVAL OF DIRECTORS AND SENIOR OFFI-
CERS.—If the Comptroller, the Board of Governors, or the
Corporation, as applicable, makes a determination to ini-
tiate proceedings to terminate a Federal charter for a na-
tional bank, Federal savings association, or branch, agen-
cy, commercial lending company, or representative office
of a foreign bank under this section, or makes a deter-
mination to initiate an involuntary termination of the de-
posit insurance, the Comptroller, the Board the Gov-
ernors, or the Corporation, as applicable, shall notify the
institution that removal is required of any director or sen-
ior officers responsible, as determined by the appropriate
Federal banking agency, for overseeing any division of the
institution during the time that the institution was engag-
ing in the identified pattern or practice of unsafe or un-
sound banking practices, pursuant to section 8(e) of the
Federal Deposit Insurance Act (12 U.S.C. 1818(e)). Any
current and former directors and senior officers deter-
mined responsible by the appropriate Federal banking
agency for overseeing any division of an institution during
the time that the institution was found to be engaging in
the pattern or practice of unsafe or unsound banking prac-
tices under this title shall also be permanently banned
from working as an employee, officer, or director of any other banking organization, pursuant to section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)).

SEC. 102. RECEIVERSHIP AND LIMITATION ON TRANSFER OF ASSETS.

(a) NOTICE TO FDIC.—The Comptroller and the Board of Governors shall notify within 24 hours the Corporation of any determination made under section 101.

(b) TERMINATION OF FEDERAL DEPOSIT INSURANCE BASED ON REVOCATION OF FEDERAL BANKING CHARTER.—For any insured depository institution identified by the Corporation under section 101, or upon being notified of the termination of a national bank or Federal savings association’s Federal charter or termination of a Federal license for an insured branch or agency of a bank under subsection (a), the Corporation shall—

(1) initiate an involuntary termination of the deposit insurance of the institution under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818); and

(2) place the institution into receivership, with the Corporation acting as the receiver, pursuant to the procedures provided under section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)).
(c) LIMITATION ON TRANSFER OF ASSETS.—In its capacity as receiver of a national bank, Federal savings association, or branch, agency, commercial lending company, or representative office of a foreign bank under this section, the Corporation may transfer any assets of the institution only to banking organizations that were assigned a rating of “satisfactory record of meeting community credit needs” or better for complying with the Community Reinvestment Act of 1977 in their most recent evaluation, and may not transfer any assets of the institution to either—

(1) a global systemically important bank holding company, or any subsidiary of such a bank holding company; or

(2) a banking organization that has exhibited substantial noncompliance with Federal consumer protection laws as evidenced by any public enforcement actions, targeted supervisory exams, or a rating of less than “satisfactory” on its most recent consumer compliance examination.

(d) CONSULTATION.—When acting in the capacity of a receiver pursuant to subsection (b), the Corporation shall consult with the Office of Minority and Women Inclusion of the Corporation.
TITLE II—CLARIFYING FEDERAL CHARTERS MUST BE TERMINATED FOR INSTITUTIONS THAT ENGAGE IN A PATTERN OR PRACTICE OF VIOLATIONS OF FEDERAL CONSUMER PROTECTION LAWS OR REGULATIONS

SEC. 201. PATTERN OR PRACTICE OF VIOLATIONS OF FEDERAL CONSUMER PROTECTION LAWS.

(a) Determination.—

(1) Comptroller.—The Comptroller shall regularly review and determine, in consultation with the Director of the Consumer Bureau, whether a national bank or Federal savings association affiliated with a global systemically important bank holding company, or a federally licensed branch, agency, commercial lending company, or representative office of any foreign bank affiliated with a global systemically important bank holding company is demonstrating a pattern or practice of violations of Federal consumer protection laws. Upon such a determination, the Comptroller shall provide a written, confidential notice within 7 days to the other Federal prudential banking agencies, Committee on Fi-
nancial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review and any identified institution and, in consultation with the Director of the Consumer Bureau, immediately initiate additional enforcement actions or proceedings to either appoint a receiver or terminate the Federal charter of such institution, pursuant to subsection (c).

(2) **BOARD OF GOVERNORS.**—The Board of Governors shall regularly review and determine, in consultation with the Director of the Consumer Bureau, whether a State member bank affiliated with a global systemically important bank holding company or State-chartered branch, agency, or representative office of a foreign bank affiliated with a global systemically important bank holding company is demonstrating a pattern or practice of violations of Federal consumer protection laws. Upon such a determination, the Board of Governors shall provide a written, confidential notice within 7 days to the other Federal prudential banking agencies, to the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate describing
the review and any identified institution and, in consultation with the Director of the Consumer Bureau, immediately initiate additional enforcement actions or proceedings to terminate the bank’s membership in the Federal Reserve System or the foreign bank’s activities in the United States, as applicable, pursuant to subsection (c).

(3) CORPORATION.—The Corporation shall regularly review and determine, in consultation with the Director of the Consumer Bureau, whether an insured depository institution affiliated with a global systemically important bank holding company is demonstrating a pattern or practice of violations of Federal consumer protection laws. Upon such a determination, the Corporation shall provide a written, confidential notice within 7 days to the other Federal prudential banking agencies, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the review and any identified institution and, in consultation with the Director of the Consumer Bureau, immediately initiate additional enforcement actions or proceedings to terminate the deposit insurance of the institution, pursuant to subsection (c).
(b) Considerations.—

(1) In General.—In making a determination under subsection (a) or paragraph (2), the Comptroller, the Board of Governors, and the Corporation, as applicable, shall consider whether the institution’s continued operations, activities, and functions are in the public interest, and whether the public benefits provided to consumers by the institution outweigh the harms posed by the institution, as well as whether the institution is meeting the convenience and needs of the communities served by the institution.

(2) Recommendation by Director.—Upon a finding by the Director of the Consumer Bureau that a national bank, State member bank, or Federal savings association affiliated with a global systemically important bank holding company, or a federally licensed branch, agency, representative office, or commercial lending company of a foreign bank affiliated with a global systemically important bank holding company is demonstrating a pattern or practice of violations of Federal consumer protection laws, the Director of the Consumer Bureau shall, within 7 days, recommend to the Comptroller, the Board of Governors, or the Corporation that deter-
mination should be made under subsection (a). The Comptroller, the Board of Governors, or the Corporation, as applicable, shall consider such recommendation and publicly respond in writing, including a detailed basis for its decision, within 90 days as to whether they will follow such recommendation.

(3) DETAILED EXPLANATION.—In making a determination under subsection (a), including in response to any recommendation made by the Director of the Consumer Bureau and in any written notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Comptroller, the Board of Governors, or the Corporation, as applicable, shall include a detailed description of the review of the institution, the basis for its determination, and which of the enforcement actions or proceedings under subsection (c) that the agency has determined to take against the institution.

(4) PUBLIC HEARINGS.—The Comptroller, the Board of Governors, or the Corporation, as applicable, may convene public hearings to consider facts, observations, evidence, and testimony provided by
any institution subject to a determination under this

title as well as affected stakeholders. At least one

public hearing must be granted if made at the writ-
ten request of the institution subject to a determina-
tion under this title, the Director of the Consumer

Bureau, or by relevant State or local government

agencies from at least five States.

(5) ANNUAL REPORT AND TESTIMONY.—Each

Federal prudential banking agency shall annually

submit a written report to the Committee on Finan-
cial Services of the House of Representatives and

the Committee on Banking, Housing, and Urban Af-
fairs of the Senate describing the actions the agency

has taken to carry out the requirements of this Act,

including the regular review required by this section,

and a list of each violation of Federal law or regula-
tion that was discovered or occurred in the previous

10 years for each global systemically important bank

holding company, and any affiliate thereof, that is

subject to the agency’s supervision. The Federal

prudential banking agencies shall annually testify

before the Committee on Financial Services of the

House of Representatives and the Committee on

Banking, Housing, and Urban Affairs of the Senate

on their respective annual report.
(c) Consequence of Determination.—

(1) In general.—If a determination is made under subsection (a) with respect to an institution that is demonstrating a pattern or practice of violations of Federal consumer protection laws, the appropriate Federal banking agency, in consultation with the Director of the Consumer Bureau, shall take one or more of the following actions:

(A) Remove responsible senior officers or directors of the institution, and permanently ban them from working at another banking organization, pursuant to section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)).

(B) Restrict certain lines of business of the institution, pursuant to section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)).

(C) Initiate proceedings to terminate the Federal charter of the institution, terminate a foreign bank’s ability to operate in the United States, or appoint a receiver pursuant to either title LXII of the Revised Statutes of the United States, the National Bank Receivership Act (12 U.S.C. 191 et seq.), or the Home Owners’ Loan Act (12 U.S.C. 1461 et seq.)
Act (12 U.S.C. 1461 et seq.), with the identified pattern or practice of violations of Federal consumer protection laws deemed as grounds for appointing a conservator or receiver under the Federal Deposit Insurance Act or terminating deposit insurance pursuant to section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)).

(2) Recommendation by Director.—If a determination is made under subsection (a) with respect to a national bank, Federal savings association, or federally licensed branch, agency, commercial lending company, or representative office of a foreign bank—

(A) the Director of the Consumer Bureau may recommend to the Comptroller, the Board of Governors, or the Corporation what actions should be taken under this subsection; and

(B) the Comptroller, the Board of Governors, or the Corporation, as applicable, shall consider such recommendation and publicly respond in writing within 30 days as to whether they will follow such recommendation.

(3) Mandatory Enforcement Actions.—If a determination is made under subsection (a), the
Comptroller, the Board of Governors, or the Corporation, as applicable, shall take at least one of the actions described under paragraph (1). If a second determination is made under subsection (a) against the same institution after enforcement actions are taken under this section, the Comptroller, the Board of Governors, or the Corporation, as applicable, shall immediately initiate proceedings to terminate a Federal charter, a State member bank’s membership in the Federal Reserve System, a foreign bank’s ability to operate in the United States, or terminate deposit insurance.

(4) Judicial review.—A determination under subsection (a) shall be subject to review by a Federal district court of competent jurisdiction under the procedures provided for under section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)).

SEC. 202. RECEIVERSHIP AND LIMITATION ON TRANSFER OF ASSETS.

(a) Notice to FDIC.—The Comptroller and the Board of Governors shall notify within 24 hours the Corporation of any determination made under section 201.

(b) Termination of Federal Deposit Insurance Based on Revocation of Federal Banking Charter.—For any insured depository institution identified by
the Corporation under section 201, or upon being notified
of the termination of a national bank or Federal savings
association’s Federal charter or termination of a Federal
license for an insured branch or agency of a bank under
subsection (a), the Corporation shall—

(1) initiate an involuntary termination of the
deposit insurance of the institution under section 8
of the Federal Deposit Insurance Act (12 U.S.C.
1818); and

(2) place the institution into receivership, with
the Corporation acting as the receiver, pursuant to
the procedures provided under section 11(e) of the
Federal Deposit Insurance Act (12 U.S.C. 1821(e)).

(e) LIMITATION ON TRANSFER OF ASSETS.—In its
capacity as receiver of a national bank, Federal savings
association, or branch, agency, commercial lending com-
pany, or representative office of a foreign bank under this
section, the Corporation may transfer any assets of the
institution only to a banking organization that was as-
signed a rating of “satisfactory record of meeting commu-
nity credit needs” or better for complying with the Com-
munity Reinvestment Act of 1977 in the organization’s
most recent evaluation, and may not transfer any assets
of the institution to either—
(1) a global systemically important bank holding company, or any subsidiary of such a bank holding company; or

(2) a banking organization that has exhibited substantial noncompliance with Federal consumer protection laws as evidenced by any enforcement actions, targeted supervisory exams, or a rating of less than “satisfactory” on its most recent consumer compliance examination.

(d) Consultation.—When acting in the capacity of a receiver pursuant to subsection (b), the Corporation shall consult with the Office of Minority and Women Inclusion of the Corporation.

SEC. 203. ADDRESSING PETITIONS FROM STATE AND LOCAL GOVERNMENT AGENCIES WITH RESPECT TO VIOLATIONS OF FEDERAL CONSUMER PROTECTION LAWS AND REGULATIONS.

The Comptroller, the Corporation, and the Board of Governors shall—

(1) consider petitions from relevant State and local government agencies, including law enforcement and city and State attorney generals, regarding a pattern or practice of violations of Federal consumer protection laws by a national bank, a
State member bank, or a Federal savings association affiliated with a global systemically important bank holding company, or a United States branch, agency, commercial lending company, or representative office of a foreign bank affiliated with a global systemically important bank holding company, or a State depository institution affiliated with a global systemically important bank holding company, as applicable;

(2) for any petition from State or local government agencies from at least five States, provide a written response within 180 days after receiving such a petition whether or not a determination is made under this title, including a detailed basis for the determination; and

(3) for any written response under paragraph (2), send a copy of the written response to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.
TITLE III—DETERRENCE AND EXECUTIVE ACCOUNTABILITY TO CURB CONSUMER ABUSES

SEC. 301. ANNUAL CERTIFICATION BY EXECUTIVE OFFICERS AND DIRECTORS OF THE BOARD.

(a) In General.—Each executive officer and director of the board of a national bank or a Federal savings association affiliated with a global systemically important bank holding company, or the branch, representative office, or agency of a foreign bank that is federally licensed and affiliated with a global systemically important bank holding company shall certify and submit a written attestation, at least on an annual basis to the appropriate Federal banking agency, the Consumer Bureau, and any relevant Federal law enforcement agency that they have regularly reviewed the institution’s lines of business and conducted due diligence to ensure that—

(1) the institution has established and maintained internal risk controls to identify significant deficiencies and weaknesses in its compliance with all applicable Federal consumer protection laws;

(2) the institution has promptly disclosed all known violations of applicable Federal consumer protection laws to the Consumer Bureau and the appropriate Federal banking agency;
(3) the institution is taking all reasonable steps to correct any identified deficiencies and weaknesses in its compliance with all applicable Federal consumer protection laws based on a review of all regulatory examination results received in prior years; and

(4) the institution is in substantial compliance with all applicable Federal consumer protection laws.

(b) GUIDANCE.—The Consumer Bureau, in consultation with the relevant Federal and State regulator and law enforcement agencies, shall issue final guidance on the content, form, and method of delivery of the annual certification required under subsection (a) within 6 months of the date of the enactment of this Act.

(c) CRIMINAL PENALTIES.—Any individual who certifies and submits an attestation described under subsection (a) that contains a false statement—

(1) if done knowingly, shall be fined not more than $1,000,000 or imprisoned not more than 10 years, or both; or

(2) if done intentionally, shall be fined not more than $5,000,000 or imprisoned not more than 20 years or both.

(d) PENALTIES FOR FAILURE TO COMPLY.—Any individual who fails to certify and submit a required attesta-
tion described under subsection (a), shall be fined not more than $1,000,000 or imprisoned not more than 10 years or both.

SEC. 302. PERSONAL LIABILITY OF EXECUTIVE OFFICERS AND DIRECTORS OF THE BOARD FOR FEDERAL CONSUMER PROTECTION LAW VIOLATIONS.

(a) CIVIL LIABILITY.—

(1) IN GENERAL.—If an executive officer or director of the board of a national bank, Federal savings association, or federally insured State depository institution affiliated with a global systemically important bank holding company, or United States branch, agency, commercial lending company, or representative office of a foreign bank affiliated with a global systemically important bank holding company, knowingly violates any Federal consumer protection law (or directs any of the agents, officers, or directors of the institution to so violate or engage), such executive officer or director shall be liable in their personal and individual capacity for damages which the institution or any other person shall have sustained in consequence of such violation or engagement. Any fines under this subsection shall not be deemed to limit the relevant Federal regulator or
law enforcement entity’s authority to impose civil penalties, fines, or other appropriate consumer re-
dress on the institution.

(2) LIMITATION ON ACTIONS.—Except as otherwise provided by law, a civil action arising under this section may not be commenced after the later of—

(A) 2 years after the discovery of the facts constituting the violation; or

(B) 5 years after such violation.

(b) CRIMINAL LIABILITY.—Any executive officer or director of the board who knowingly causes a national bank, Federal savings association, or federally insured State depository institution affiliated with a global systemically important bank holding company, or United States branch, agency, or representative office of a foreign bank affiliated with a global systemically important bank holding company to violate any Federal consumer protection law (or who directs another agent, senior officer, or director of the institution to commit such a violation or engage in such acts that result in the director or officer being personally unjustly enriched and the institution being con-
ducted in an unsafe and unsound manner) shall be—

(1) fined in an amount not to exceed 100 per-

cent of the compensation (including stock options
awarded as compensation) received by such officer or director from the institution—

(A) during the time period in which the violations occurred; or

(B) in the one to three year time period preceding the date on which the violations were discovered; and

(2) imprisoned for not more than 5 years.

(e) **Termination of Employment and Lifetime Ban.**—If an executive officer or director of the board of a national bank, Federal savings association, or federally insured State depository institution affiliated with a global systemically important bank holding company, or United States branch, agency, commercial lending company, or representative office of a foreign bank affiliated with a global systemically important bank holding company commits a violation or engages in an act described under subsection (a) or is convicted of a violation or of engaging in an act described under subsection (b), the Comptroller, the Corporation, or the Board of Governors, as applicable, shall notify within 24 hours the institution that such executive, director, or senior officer must be terminated from their position with the institution and be permanently prohibited from engaging in the operation and management of any other federally chartered or federally insured bank-
ing organization, pursuant to section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)).

**TITLE IV—REPORTS**

**SEC. 401. REPORTS TO CONGRESS.**

The Board of Governors, the Comptroller, the Consumer Bureau, and the Corporation shall each submit an annual report to the Congress containing a description of actions taken to carry out this Act.

**SEC. 402. REPORTS BY THE OFFICES OF MINORITY AND WOMEN INCLUSION.**

The Office of Minority and Women Inclusion of the Board of Governors, the Comptroller, the Consumer Bureau, and the Corporation shall each include, in the annual report required under section 342(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(e)), a description of—

(1) how the duties of the Office have been carried out with respect to the requirements of this Act; and

(2) with respect to the Office of the Corporation, how the Office has carried out the consultations required under this Act.